

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KWAME KILPATRICK, ET AL.,

Defendants.

Case No. 10-20403

Honorable Nancy G. Edmunds

ORDER REGARDING PRETRIAL MOTIONS [82, 83, 85, 86, 87, 88, 91, 148, 142; 79, 89, 90, 93, 147; 112, 146; 80, 81, 92, 113, 123, 145]

At a hearing held on August 6, 2012, this matter came before the Court on the following pretrial motions filed by Defendants and the government.

A. Motions Denied As Moot

The following motions are DENIED AS MOOT because, as stated on the record, the parties have resolved the issues raised in these motions:

- Defendant Bobby Ferguson's motion to dismiss duplicitous counts [82], joined by Defendant Kwame Kilpatrick [107].
- Defendant Bobby Ferguson's motion to strike surplusage from Indictment [83], joined by Defendants Kwame Kilpatrick [108], Bernard Kilpatrick [116], and Victor Mercado [149];
- Defendant Bernard Kilpatrick's motion to limit foundational testimony for recordings, surveillance and text messages [85, 86], joined by Defendants Kwame Kilpatrick [109] and Bobby Ferguson [96];

- Defendant Bernard Kilpatrick's motion for supplemental discovery and clarifications [87], joined by Defendants Kwame Kilpatrick [110] and Bobby Ferguson [96];
- Defendant Bernard Kilpatrick's notices and demands in compliance with Standing Order and Federal Rules [88], joined by Defendant Bobby Ferguson [96];
- Defendant Kwame Kilpatrick's motion for specific discovery [91], joined by Defendants Bernard Kilpatrick [99] and Bobby Ferguson [97];
- Defendant Kwame Kilpatrick's motion *in limine* to preclude prejudicial evidence [142]; and
- Defendant Victor Mercado's motion for leave to file future evidentiary motions [148].

B. Motions Denied Without Prejudice

For the reasons stated on the record at the August 6, 2012 hearing, the following motions are DENIED WITHOUT PREJUDICE to raise the issue or issues presented in each respective motion should that issue become pertinent:

- Defendant Bobby Ferguson's motion for a bill of particulars [79];
- Defendant Bernard Kilpatrick's motion to limit interpretation of recorded calls [89], joined by Defendants Kwame Kilpatrick [111] and Bobby Ferguson [96];
- Defendant Kwame Kilpatrick's motion for disclosure of *Brady/Giglio* materials [90], joined by Defendants Bernard Kilpatrick [99] and Bobby Ferguson [97];
- Defendant Kwame Kilpatrick's motion for a pretrial hearing on whether hearsay statements are admissible under Fed. R. Evid. 801(d)(2)(E) [93], joined by Defendants Bernard Kilpatrick [99] and Bobby Ferguson [97]; and
- Defendant Victor Mercado's motion for production of exculpatory evidence [147].

C. Motions Denied For Reasons Stated on Record

For the reasons stated on the record at the August 6, 2012 hearing, the following motions are DENIED:

- Defendant Bernard Kilpatrick's motion for a bill of particulars [112], and
- Defendant Victor Mercado's motion for a bill of particulars [146].

D. Motions Taken Under Advisement

The following motions are TAKEN UNDER ADVISEMENT, and the Court will issue an opinion on these motions either within the next two weeks or after receipt of supplemental briefing:

- Defendant Ferguson's motion to dismiss Counts 16 and 17 for failure to state an offense [80], joined by Defendant Kwame Kilpatrick [105];
- Defendant Ferguson's motion to dismiss "color of official right" theory from Counts 4, 5, 9 and 11 [81], joined by Defendants Kwame Kilpatrick [106], Victor Mercado [149], and Bernard Kilpatrick [115];
- United States' motion *in limine* for pretrial determination of authenticity of certain evidence [92];
- Defendant Bernard Kilpatrick's motion in opposition to empaneling an anonymous jury [113], joined by Defendants Bobby Ferguson [121] and Victor Mercado [149];
- Government's motion to strike [123] Defendant Bernard Kilpatrick's Joinder in Defendant Bobby Ferguson's motion to dismiss "color of official right" theory is WITHDRAWN, but the Court will consider the substantive issue raised in Defendant Bernard Kilpatrick's Joinder [115] and the government's response; and
- Defendant Mercado's motion to sever trial from Co-Defendants [145], joined by

Defendant Kwame Kilpatrick [176], is TAKEN UNDER ADVISEMENT with supplemental briefing to be submitted by Friday, August 10, 2012.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: August 6, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 6, 2012, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager